



Housing Allocations Policy for The Borough of Spelthorne

This policy is as required by Part 6 of the Housing Act 1996 as amended by the Homelessness Act 2002. It should be read in conjunction with the Spelthorne Search Moves User Guide.

Contents

	Page Number	
1	<u>Introduction and aims of this policy</u>	4
1.1	Introduction	4
1.2	Key features of the Allocations Policy	4
1.3	The Legislative Framework	5
2	<u>The Housing Registers</u>	5
2.1	Introduction	5
2.2	Housing Register Eligibility	5
2.3	Housing Register Qualification	5
2.4	Qualification Criteria	5
2.4.1	Exceptions to qualification criteria	6
2.5	Disqualification criteria	7
2.6	Joint applications	8
2.7	Applicant consent and declaration	8
2.8	Change of circumstances	9
2.9	Review of applications	9
2.10	Pre-tenancy training	9
2.11	Banding	9
2.12	Priority date (Effective date of application)	9
2.13	Cumulative need	10
2.14	Applicants who have deliberately worsened their housing circumstances	10
2.15	Medical or Welfare needs	10
2.16	Accessing overcrowding / bedroom shortage	10
2.17	Assessment of cases where children are part of an application	11
2.18	Assessment of Homeless applicants to whom the full duty to secure accommodation is owed	12
2.19	Armed Forces personnel	12
3	<u>Lettings arrangements for vacant properties</u>	13
3.1	Applicant choice	14
3.2	Allocation by advertising properties via Choice Based Lettings	14
3.2.1	Preferential advertising	14
3.2.2	Preferential advertising for Working Households	14
3.2.3	Preferential advertising in relation to Local Letting Policies	15
3.3	Allocation by Direct Offers	15
a.	Surrey Mobility Scheme	
b.	National Witness Mobility Service	
c.	MAPPA / PPO Clients	
d.	Exceptional Housing Need	
e.	Homeless 'Duty Accepted' households	
4	<u>Applicant bidding</u>	16
4.1	Bidding Process	16
4.2	High priority band	16
4.3	Size of property applicants can bid for	16
5	<u>Shortlisting, offering and letting of properties</u>	16
5.1	Bidding closing date	16
5.2	Bypassing of Applicants	17
a.	Applicant is ineligible or unsuitable for the property	
b.	Applicant is not ready to move and / or to live independently	

c.	Change in Applicant's Circumstances	
d.	History of Anti-Social Behaviour	
e.	Rent Arrears / Debt	
f.	Community Safety Concerns	
g.	Fraudulent application has been made	
h.	Circumstances Not Confirmed	
i.	No response from applicant	
j.	Local Letting Plans	
k.	Sensitive Letting	
l.	Property not suitable for adaption	
m.	Property Advert Withdrawn	
n.	Special requirement of Landlord	
o.	Applicant has alternative property offer outstanding	
p.	Properties in poor condition	
5.3	Appeals against bypassing	18
5.4	Viewings and offers	19
5.5	Tenancies	19
6	<u>Assistance for vulnerable applicants</u>	19
6.1	Identifying who will require additional assistance	19
6.2	Assisting vulnerable applicants	19
7	<u>Right of review of decisions relating to applications and allocations</u>	20
7.1	Complaints	20
8	<u>Monitor and review of the policy</u>	21
9	<u>Personal information and Data Protection</u>	21
9.1	Applicants accessing own personal data	21
9.2	Data protection at Spelthorne Borough Council	21
9.3	Applicants accessing own personal data	21
10	<u>Requirement to consult Registered Social Landlords on the Allocations Scheme</u>	21
11	<u>Equal Opportunities</u>	21
	Appendix 1 The Banding Scheme	22
	Appendix 2 Officer Roles And Responsibilities	27
	Appendix 3 Eligibility and Qualification	29

1 Introduction and Aims of this Policy

1.1 Introduction

The overall aim of this policy is to ensure that social housing in the borough is allocated fairly and objectively, having regard to any legislative requirements, regulations or Codes of Guidance issued by Department of Communities and Local Government, and homelessness and tenancy strategies.

1.2 Key features of the Allocations Policy

This Allocations Policy has been established with a view to meeting the following principles and key objectives:

- To operate a lettings policy based on housing need; which is simple, easy to understand, transparent, open and fair.
- To ensure that every application is dealt with fairly and consistently.
- To give adequate priority to people who fall within the Government's "Reasonable Preference" categories.
- To provide timely information, advice and assistance and make the best use of the powers and resources available to assist people to solve their housing problems in a way more suited to their needs.
- To ensure that applicants have ready access to information on their prospects of housing.
- To give adequate priority to homeless people whilst maintaining a balance between the needs of the homeless and other applicants in housing need.
- To give most applicants choice where practicable to express choice and preferences about where they want to live whilst having regard to the availability of housing resources and the high demand for housing.
- To give adequate priority to residents in housing need who are in low income employment, and who have served in the Armed Forces, whilst maintaining a balance to all other applicants.

In addition to the above, this policy has been designed to make best use of the housing stock in the borough to ensure that:

- Sustainable and balanced communities are maintained.
- Re-let times are minimised.
- Difficult to let properties are dealt with.
- Under-occupation is reduced.
- Best use is made of Supported Housing for those who are suitable for this type of housing and in the greatest need of the support.

1.3 The Legislative Framework

Legislation states that when making an allocation a local authority must comply with the provisions of Part 6 Housing Act 1996 and the Localism Act 2011. This states that the policy should be set out to ensure that reasonable preference is given to specific groups of people:

- People who are homeless (within the meaning of Part VII of the Housing Act 1996).
- People who are owed duties under s.190(2), 193(2) or 195(2) of the Housing Act 1996 or similar duties under the Housing Act 1985 or who are occupying accommodation secured by the Council under s.192(3) of the Housing Act 1996.
- People occupying unsanitary or overcrowded housing or living in unsatisfactory housing conditions.

- People who need to move on medical or welfare grounds, including grounds relating to disability.
- People who need to move to a particular locality to avoid hardship to themselves or others.

This policy gives reasonable preference to these categories of people.

Information on the priority given to applicants in these groups, alongside other priority categories is set out in **Appendix 1**.

2 The Housing Register

2.2 Housing Register Eligibility

In certain circumstances, applicants may not be eligible for an allocation of social housing and they will be excluded from the housing register they apply to. These are people from abroad who are ineligible for social housing. A full list of those who are ineligible for an allocation of social housing is contained in **Appendix 3**.

Any applicant who is excluded from the housing register as ineligible will be notified in writing of the reasons why the decision has been made. There is a statutory right to review or appeal this decision. See Section 7 for further information on the review procedure.

2.3 Housing Register Qualification

Under this policy housing will only be allocated to a 'qualifying' person. Housing will not be allocated to a disqualified person. The criteria for qualification or disqualification are set out below.

However in exceptional circumstances the Housing Options Manager or Head of Service or equivalent will consider whether to disapply the qualification / disqualification criteria.

Any applicant who is excluded from the housing register because they do not meet the qualification criteria will be notified in writing of the reasons why the decision has been made. There is a statutory right to review or appeal this decision. See Section 7 for further information on the review procedure.

2.4 Qualification Criteria

In order to qualify to be included on the housing register applicants must fulfil the following criteria:

(i) Age

An applicant must be at least 16 years old. As an applicant under 18 cannot legally hold an independent tenancy a guarantor will normally be required before any 16 / 17 year old is offered a property.

(ii) Local Connection

Only applicants who meet the requirements set out below with regard to local connection will qualify to be included on the housing register.

Current Residence

- Applicants who currently live within the borough of Spelthorne and have done so for at least the last three years. Or,

Previous Residence

- Applicants who have previous continuous residence within the borough of Spelthorne amounting to five or more continuous years in that borough within the last 10 years (only residence as an adult will be taken into account). Or,

Family

- Applicants who have immediate family (mother / father / brother / sister / adult son / adult daughter) who are currently living in the borough of Spelthorne and have done so for at least five years or more. Or,

Work

- Applicants who have a permanent job in the borough of Spelthorne (at least 18 hrs. a week and an existing contract of 12 months or more), Or,
- Zero hours contracts will be considered on a case by case basis but must demonstrate they have worked more than 18 hours a week on average

Special Circumstances

- Applicants who have a connection with the borough of Spelthorne because of any special circumstances, such as the need to be near specialist medical or support services which are only available in a particular district.

(iii) Property ownership

To qualify, applicant(s) or a member of their household MUST NOT own or part own a property, either in the UK or abroad

(iv) Income Thresholds

To qualify, applicant(s) joint household income MUST NOT be greater than £50,000 a year gross

(v) Saving Thresholds

To qualify, applicant(s) total household savings MUST NOT be greater than £30,000

2.4.1 Exceptions to qualification criteria

(i) Homeless Households

A household who has been accepted as homeless by Spelthorne Borough Council and it has been determined that they are owed the full housing duty under S193 of the Housing Act 1996 (and has not been referred to another authority on 'local connection' grounds) and that duty has yet to be discharged, will be deemed to be a qualifying person with regard to local connection within this policy.

(ii) Special Arrangements for Armed Forces

Under this policy we will not disqualify the following applicants on the grounds that they do not have a local connection with the authority's district:

(a) Members of the regular Armed Forces and former personnel of the regular Armed Forces, where the application is made within five years of discharge.

(b) Bereaved spouses and civil partners of members of the regular Armed Forces leaving Services Family Accommodation following the death of their spouse or partner (where the death is wholly or partly attributable to their service).

(c) Serving or former members of the Reserve Forces who need to move because of a serious injury, medical condition or disability sustained as a result of their service.

(iii) Relevant social housing tenants - Need to Move for the purpose of work

Under this policy we will not disqualify relevant social housing applicants on the grounds that they do not have a local connection with the authority's district subject to the following conditions.

They must be a secure or introductory tenant in England or assured tenant of a Registered Provider in England. They must also have a reasonable preference under s.166 (3) Housing Act 1996 because of a need to move to the district and where failure to meet that need would cause hardship to themselves or to others

They must have a need to move because they work in the authority's district or have been offered work in the authority's district and the authority is satisfied there is a genuine intention of taking up the offer of work.

This section will not apply if the need to move is associated with work or the offer of work which is short term or marginal in nature, ancillary to work in another district or voluntary work.

(iv) Households who have a reasonable preference need

Persons who do not meet the qualification criteria (in 2.4) but who fall within the statutory reasonable preference groups (as per paragraph 1.3 above) will be deemed to qualify to join the register.

2.5 Disqualification Criteria

The following categories of persons will be not included on the housing register.

(i) Unacceptable Behaviour

Unacceptable behaviour is classed as behaviour that would allow a landlord, acting reasonably, to obtain any form of possession order against the tenant.

If the behaviour of an applicant (or a member of their household) is likely to affect their suitability to be a tenant this will be taken into account when deciding whether to exclude them. For example, if a household contains somebody who has been served with an Anti-Social Behaviour Order (ASBO) this would be taken into account when deciding whether to exclude the applicant.

Applicants that have been excluded or removed in the past can make a new application if they can demonstrate they have improved their behaviour. When considering a new application, the severity and persistence of any previous anti-social behaviour (ASB) will be taken into account and the length of time that has elapsed since the previous incidents / anti-social behaviour.

All relevant information, such as health problems, people who are dependent on the applicant and other issues will be considered before a decision on whether to exclude is made. The interests of the applicant and their household will be considered balanced against the interests of the people who live and work in any of the partner organisations housing areas.

(ii) Fraudulent Applications and Tenancy Fraud

Where an applicant or a member of the household is discovered to have knowingly or recklessly made false statements or knowingly withheld information in respect of his / her application for housing, consideration will be given to excluding the applicant from the housing register. The period of exclusion will be at the discretion of the Head of Service, Housing Options Manager or equivalent and may last for a period of up to five years.

Consideration will also be given to pursuing a criminal prosecution under s.171 of the Housing Act 1996 (or other similar legislation that may be applicable).

If an applicant or member of the household is discovered to have previously committed tenancy fraud they will be disqualified for a period of up to five years.

2.6 Joint Applications

Joint applications may be made by:

- Husband and wife.
- Civil partnership couples.
- Partners.
- Parent and child over 18 years of age.
- Siblings.

By making a joint application this does not necessarily mean an offer of a joint tenancy will be made. Local arrangements may apply and this will be subject to the discretion of the landlord offering the property.

2.7 Applicant Consent and Declaration

Each applicant will be expected to complete the application form and sign the declaration at the back of the form confirming that the details they have provided are correct. Where an application is made online the applicant will be required to confirm the details provided are correct. Checks will be made as part of the verification process that the details are correct but the onus is on the applicant to give the correct information on their application.

Legal action can be taken against any applicant or a member of their household who provides false information when applying for housing (including a fine of up to £5,000). Under Section 172 of the Housing Act 1996 it is an offence to:

- Deliberately provide false information. Or,
- Deliberately withhold information that should have been given.

Possession proceedings can be instigated if a tenancy was obtained by giving false information.

Applicants will also be expected to sign to give authorisation to contact other agencies, e.g., Housing Associations, Social Services, current or former landlords, to obtain and share relevant information about them.

2.8 Change of Circumstances

Applicants who move home or whose circumstances change after they have been accepted onto the housing register, (e.g. someone joining or leaving their household, or a change in income or employment etc.) should immediately contact Spelthorne Borough Council and notify them of the change. An applicant may have to complete a further housing application form.

If the change of circumstances affects an applicant's banding or priority date they will be informed in writing of the outcome of the reassessment. See Section 2.11 regarding priority date.

2.9 Review of Applications

All applications will be periodically reviewed and applicants may be removed from the housing register if their circumstances have changed or they fail to respond to correspondence.

2.10 Pre-tenancy training

Applicants to Spelthorne's housing register may be required to complete pre-tenancy training arranged by the Council (or by a Housing Association in conjunction with the council) regarding the responsibilities of holding a tenancy.

2.11 Banding

All applications are assessed and awarded a Band to reflect the level of need of the applicant and local connection. There are seven bands:

- **Band A1** – Emergency / Priority.
- **Band A2** – Emergency / Priority (transfer cases)
- **Band B1** – Urgent need to move.
- **Band B2** – Urgent need to move (transfer cases)
- **Band C1** – Identified need to move
- **Band C2** – Cases with a reasonable preference need but no local connection
- **Band D** – Low housing need and no 'deemed' housing need.

A detailed list of the factors, taken into account when awarding these Bands, is set out in **Appendix 1**.

All **Band A** cases will be reviewed on a six monthly basis.

2.12 Priority Date (Effective Date of Application)

All applications are given a priority date, which is usually the date they join the register.

If a change of circumstances affects an applicant's banding they will be informed in writing of the outcome of the reassessment. Applicants will retain their original registration date as their priority date if their banding changes except if they are placed in **Band A1/A2 or B1/B2**. In this case their priority date will be the date their application was moved to **Band A1/A2 or B1/B2A** (see **Appendix 1** for information on the Banding Scheme).

If an application has been cancelled, for any reason, any subsequent application will have a new priority date based on the date of the new application.

2.13 Cumulative Need

If an applicant (or one or more members of their household who will move with them, as applicable) has more than one identified housing need (cumulative need) within the priority band in which they have been placed, they may in exceptional circumstances be placed in a higher band to recognise their cumulative need.

2.14 Applicants Who Have Deliberately Worsened Their Housing Circumstances

If there is evidence that an applicant has deliberately made their housing circumstances worse to get more priority on the housing register their application may be placed in **Band D**.

2.15 Medical or Welfare Needs

Additional priority may be awarded on medical or welfare grounds if the information received indicates a move will benefit the health and wellbeing of the applicant and / or their household following consideration by an officer and / or advice from an independent medical adviser. The medical assessment will reflect the household as a whole and one banding will be awarded per application which will take into account the factors for the applicant and if relevant, any individual household members.

Where an applicant requires a live-in carer, the carer will be treated as a member of the household and the bedroom requirement will be assessed accordingly.

The awards are as follows:

Band A1/ A2 – where the applicant is assessed as having an “emergency” medical or welfare need to move because the current property is unsuitable. (Transfer cases will fall into band A2; all other cases will fall into A1)

This award should be for the most extreme cases where the need to move is seen as an emergency and it is highly probable the applicant’s life might be at risk or there is a risk of severe injury to an applicant or a member of the household included on the application if they continue to occupy the accommodation.

Band B1/B2 – where the applicant is assessed as having an “urgent” medical or welfare need to move because the current property is unsuitable. (Transfer cases will fall into band B2; all other cases will fall into B1)

Band C1/C2 – where there is an “identified” medical or welfare need to move because the current property is unsuitable. (Transfer cases will fall into band C2; all other cases will fall into C1)

If there is a relevant change in the applicant’s circumstances, e.g. a change of address, a new application and a medical assessment may need to be completed.

Applicants will be notified in writing of the decision about a medical or welfare award. They will be advised they have the right to appeal against the decision. (See Section 7 for further information on the appeals procedure).

2.16 Assessing Overcrowding / Bedroom Shortage

An applicant’s level of overcrowding will be carefully assessed in determining their band.

If an applicant is assessed as being statutorily overcrowded as defined in Part 10 of the Housing Act 1985 they will be placed in **Band A1/A2**. This will normally be assessed by the department using Environmental Health legislation. (Transfer cases will fall into band A2; all other cases will fall into A1)

If an applicant is assessed as overcrowded and requires two or more additional bedrooms they will be placed in **Band B1/B2**. (Transfer cases will fall into band B2; all other cases will fall into B1)

If an applicant requires one additional bedroom they will be placed in **Band C1/C2**. (Transfer cases will fall into band C2; all other cases will fall into C1)

For the purposes of assessing their bedroom shortage (or bedroom need) a separate bedroom is allocated to each of the following:

- The main applicant and partner.
- Two children of either sex where they are both under 10 years of age.
- Two children of same sex where there is an age gap of less than 10 years.

- Two children of same sex where there is more than a 10 year age gap but where both are under 16.
- An overnight carer.

It should be noted that:

- A child will be considered to have a 'need' from birth.
- A single adult within the household (who is not the applicant) would only be entitled to a separate room if there is no other person they can share with within the below table. However an adult would not be expected to share with their own child.

For clarification purposes this is further set out as follows:

Household	Bedroom Need
Adult person – single	Bedsit / One Bedroom
Adult couple	One bedroom
An overnight carer	One bedroom
Two persons / children of the same sex with less than a ten year age gap	One bedroom
Two persons / children of different sex both under 10 years of age	One bedroom
Two persons / children of the same sex with more than a ten year age gap where both are under 16	One bedroom
Two persons / children of different sex, of whom at least one is over 10 years of age	Two bedrooms
Two persons of the same sex with more than a ten year age gap and where at least one is 16 or over	Two bedrooms

In certain circumstances the size of the bedrooms in an applicant's property and the relationship between those sharing a bedroom will be taken into account when carrying out an overcrowding / bedroom shortage assessment.

Houses with two or more bedrooms may be advertised with preference to households with a dependent child under 16. However this preference would only apply where applicants were in the same band so a **Band C1/C2** applicant with dependent children would not be given preference over an applicant with adult children in **Band B1/B2** for example.

Overcrowding priority will not be given if the applicant has caused the situation by moving in others who are not part of their household. E.g. an applicant with a child is living in two-bedroom accommodation and they choose to share a bedroom in order to let the second bedroom to a tenant / acquaintance / extended family member.

In exceptional circumstances, such as a medical need, additional bedroom requirements may be considered.

Children who are away from home, for example at University, will still be treated as part of the household as long as there is a clear intention to return.

2.17 Assessment of Cases Where Children are Part of an Application

In assessing whether there is a bedroom shortage for the purposes of awarding a Band and in deciding the size of property an applicant is eligible for, an assessment will be made on the facts of each case. In reaching a decision regard will be had to what is considered to be the child's **prime residence** i.e. where they stay overnight, where there is financial dependency including who claims child benefit, who the child is

dependent upon for daily care as well as social factors such as where the child goes to school.

Assessment of Cases Where Children Stay with More Than One Household

There may be informal agreements between separated parents to share the care of their children and they may stay with each parent on a regular basis. However only in the most exceptional circumstances would a child / children be considered as needing accommodation with more than one parent for the purposes of applications for social housing.

In considering shared custody arrangements the housing authority will take into account any court directives. However it should be noted that a family court order which refers to residence and accommodation arrangements is not binding upon the housing authority with regard to provision of accommodation. It is for the housing authority to determine whether priority should be given in respect of shared custody.

2.18 Assessment of Homeless Applicants to whom the Full Duty to Secure Accommodation is owed.

(a) The Council's Legal Duty

All Local Authorities have a legal duty under Part VII of the Housing Act 1996 (as amended by the Homelessness Act 2002) to make sure that homeless applicants owed the "full" duty under s.193 (2) are provided with suitable accommodation. There is no requirement that this be permanent. Other duties in relation to accommodation or advice / assistance depend on their priority need. **Appendix 1** shows the priority of homeless households within the Banding Scheme.

Homeless households are one of the categories who must be given a reasonable preference and the Spelthorne Allocations policy meets this requirement as outlined below:

(b) Priority Banding

Homeless applicants to whom the full duty is owed will normally be placed in **Band B**.

(c) Bidding

An accepted homeless applicant will be expected to bid for all suitable accommodation, including cross boundary properties. Where a bid results in an offer of accommodation, and this property is deemed to be suitable by the local authority, this will normally be deemed to be a final offer of accommodation which will end the homelessness duty under the Housing Act 1995 part 7. This is subject to right of review.

If bids are not placed by the member the local authority reserves the right to place bids on behalf of the applicant. Direct lets may also be used by the local authority to discharge duty.

2.19 Armed Forces Personnel

It is recognised that those who have served in the Armed Forces have made significant sacrifices for their country and have often moved many times occupying Armed Forces accommodation that is tied to their service. It is intended that such households should not face discrimination under this policy and should receive special consideration for housing. As part of this commitment it should be noted that under this policy, the local connection requirement does not apply to Armed Forces personnel (as set out in 2.4 (iv)). Regular Armed Forces personnel are therefore given equal treatment under this policy regardless of the area they have been living in.

In addition under this policy certain Armed Forces households will also be awarded special priority as follows:

Band B Armed Forces Priority – this will be awarded to serving members of the regular Armed Forces (and their families):

- Whose service is coming to an end within 12 months of their application or has come to an end within the preceding 12 months. AND,
- They are losing / have recently lost their MoD accommodation. AND,
- There is a specific need to move to the borough relating to employment or family issues. AND,
- There are insufficient funds to pursue other options.

(NB. This priority will not be awarded in situations where service is being ended / has ended due to issues relating to misconduct).

Similarly the same **Band B** Armed Forces priority will be awarded to recently bereaved spouses (or civil partners) of members of the regular Armed Forces:

- Where the bereavement is within 12 months. AND,
- They are losing / have recently lost their MoD accommodation. AND,
- There is a specific need to move to the borough. AND,
- There are insufficient funds to pursue other options.

Band C Armed Forces Priority – this will be awarded to serving members of the regular Armed Forces (and their families):

- Whose service is coming to an end within 12 months or has come to an end within the preceding 12 months. AND,
- They are losing their accommodation / have recently lost their MoD accommodation. AND,
- There are insufficient funds to pursue other options.

(NB. This priority will not be awarded in situations where service is being / has ended due to issues relating to misconduct).

Similarly the same **Band C** Armed Forces priority will also be awarded to recently bereaved spouses (or civil partners) of the regular armed forces:

- Where the bereavement is within 12 months. AND,
- They are losing / have recently lost their MoD accommodation. AND,
- There are insufficient fund to pursue other options.

In all other situations, households will be banded according to the banding rules taking into account their current accommodation and any medical or welfare issues. Some Armed Forces households who are losing their MoD accommodation may also need to be dealt with under the Homelessness provisions and may be awarded a priority band relating to their homelessness status.

3 Lettings arrangements for vacant properties

3.1 Applicant Choice

Most applicants will be able to choose the type of accommodation that they wish to be considered. This choice is exercised through the Council's Choice Based Lettings Scheme.

However this choice is subject to some restriction and some categories of applicants *may* not be given choice in the allocations process – see section 3.3

3.2 Allocation by advertising properties via Choice Based Lettings

Properties will be advertised through the Search Moves website. Property adverts will clearly set out any restrictions that apply to who may bid as well as any preferential advertising arrangements that may apply.

Property adverts will set out the size and type of the vacant property and only applicants who have been assessed as needing that size or type may apply / bid. For example a one bedroom property would be restricted to single or couples only, a sheltered housing flat would be restricted to elderly applicants only; a property with adaptations suitable for a disabled occupant may be restricted to applicants requiring such adaptations.

Property adverts will also set out if there are to be any factors, other than band, that may be taken into account in prioritising the applicants who have bid.

Further practical details of the Council's choice based lettings scheme and advertising and bidding arrangements are available in an Applicant User Guide, which is available on the Search Moves website

3.2.1 Preferential Advertising

Property adverts will also set out if there are any other factors, other than banding that may be taken into account in prioritising applicants who have bid

3.2.2 Preferential Advertising for Working Households

There is some preference to working households and some vacancies will be advertised specifically for working households. Approximately 10% of all properties advertised will be set aside specifically for working households only. Households will still then be further prioritised by band. This may be different for properties where a local lettings plan applies where a higher % may be applied.

This aspect of the scheme will give special recognition to the importance of incentivising work. In addition working households will still be able to apply / bid for all other vacancies.

The overall % of lettings which are allocated to working households will be carefully monitored and if necessary targets will be set (or the 10% quota amended) to ensure more working households are being housed as a result of this policy.

The definition of work for this purpose is a permanent job or temporary contract of 12 months or more and of 18 hours or more per week.

3.2.3 Preferential Advertising in relation to Local Letting Policies

Some properties (usually new build) will be advertised with the statement "local lettings policy applies". In order to encourage balanced communities it will be necessary, from time to time, for a partner organisation to apply specific criteria designed to address local management issues. The policy will be representative of the needs of the community and promote community cohesion.

Local Lettings Policies will normally apply to any new build scheme or letting of homes following conversion where there are 10 or more units to be let.

Local Lettings Policies may be considered or in existence for the following reasons:

- Planning Restrictions.
- Section 106 agreements.
- The proportion of homeless households on estates.
- Properties may be unsuitable for young children.
- Restriction on the family size on estates to reduce child density.
- Specific housing management reasons. E.g. anti-social behaviour
- People who are in employment.
- Changes to eligibility criteria for difficult to let schemes e.g. lowering the age of applicants to sheltered developments.

All adverts will specify if a local lettings plan is relevant.

3.3 Allocation by Direct Offers

Direct Offers may be made in relation to certain categories of application Information will be published each year on the number of direct lets made in this way. The circumstances under which direct offers may be made are as follows:

(a) Surrey Mobility Scheme

Where a request for assistance is made through the Surrey Domestic Violence mobility scheme for the re-housing of victims of violence in accordance with the current procedure agreed by the Surrey District Housing Authorities.

(b) National Witness Mobility Service

In certain circumstances a Search Moves partner organisation may need to offer accommodation to an applicant who is giving evidence in a criminal or civil case and they are suffering from intimidation or harassment which means they cannot remain in their current home. These applicants will be given **Band A1** priority but if it is unlikely they will receive an offer within a reasonable timeframe, the case may be considered as a general exception to the Banding Scheme and, if appropriate, offers of accommodation will be made before other applicants.

(c) MAPPA / PPO Clients

These lets will be managed in liaison with MAPPA and relevant agencies. Each case will be assessed on its individual circumstances.

(d) Exceptional Housing Need

In certain circumstances a case may be recognised as having an exceptional housing need. If it is deemed that an applicant is suffering severe hardship on welfare or medical grounds and it is unlikely they will receive an offer of accommodation within a reasonable time frame, at the discretion of the Head of Housing Options or equivalent, they may be considered for a direct offer of accommodation.

(e) Homeless 'Duty Accepted' Households

Direct offers may be made to homeless households in some circumstances in order to ensure that the Council can manage its homelessness duties, and ensure that adequate temporary accommodation is available or in circumstances where a homeless household has a need for a specific type of housing or has not actively bid for accommodation.

If the direct offer is to be the final offer to discharge the homeless duty the applicant will be notified of this in writing.

4 Applicant bidding

4.1 Bidding Process

Applicants in Bands A1, A2, B1, B2, C1, C2 and D will be required to submit 'bids' (expressions of interest) in properties for which they wish to be considered. The bidding process is explained in the Applicant User Guide.

4.2 High Priority Band

The property will be offered to the applicant who has the highest priority band and priority date on the housing register and meets the property criteria. Once an applicant has accepted an offer of accommodation any other bids placed by them are discounted.

4.3 Size Of Property Applicants Can Bid For

Applicants can only bid for properties that are of the correct size for their household. This is to ensure that best use is made of the stock and minimises under occupation or overcrowding of homes. Section 2.15 sets out the way that bedroom need is assessed and the size of property applicants are eligible for.

Due to the shortage of larger properties, applicants who are eligible for four and five bedroom properties may also be considered for larger three bedroom properties, for example, a three bedroom property with two separate living areas. Where properties have two living rooms ('parlour' houses) it will be expected that one living room is used as a bedroom as long as this is suitable in relation to the property layout.

5 Shortlisting, offering and letting of properties

5.1 Bidding Closing Date

Once the deadline has passed for bidding for a property, the Council will consider those who have bid and will select applicants for viewing and offering. As a general rule applicants who have bid for a property will be prioritised in band order (and within each band by date order) subject to any other preferences or restrictions set out in the advert.

5.2 Bypassing of Applicants

In some situations a property will not be offered to the highest banded applicant who has bid. Shortlisted applicants can be bypassed for a number of reasons and these are set out below. Where shortlisting is carried out by landlord partners on behalf of the Council they may make decisions to bypass applicants within the terms of this policy, however in these circumstances they will report such decisions to the Council and the final decision with regard to the interpretation of these policy provisions shall be made by the Council.

Bypass Reasons

(a) Applicant is Ineligible or Unsuitable for the Property

Applicants may be bypassed where their household does not meet the criteria for the property set out in the advert e.g. due to age restriction requirement, due to the household size not matching the property size, due to ages of household members or because any property adaptations in the vacant property are either not required or not matched to the household who has bid.

(b) Applicant is Not Ready to Move and / or to Live Independently

Applicants may be bypassed where, even though they have bid for a property; they themselves decide they are not ready to move. Applicants may also be bypassed if they are considered not to be ready to move or to live independently due to social or medical reasons. In determining this, regard will be had to any support available.

(c) Change in Applicant's Circumstances

Applicants may be bypassed where there has been a change in their circumstances which makes them unsuitable or ineligible e.g. change in medical requirements, change in financial situation

(d) History of Anti-Social Behaviour

Applicants may be bypassed where they or their family members have a recent history of significant antisocial behaviour which would make them unsuitable for the property.

(e) Rent Arrears / Debt

Applicants may be bypassed where they have current or recoverable former rent arrears with any landlord or other debts with the Council and which are not being satisfactory repaid.

Statutory homeless applicants will generally not be bypassed for this reason but individual circumstances will be assessed the Council and the relevant landlord.

(f) Community Safety Concerns

Applicants may be bypassed where there are community safety concerns / risks which relate to the applicant being placed in a particular property or area.

(g) Fraudulent Application Has Been Made

An applicant will be bypassed where there are reasonable grounds for believing that false information has been given.

(h) Circumstances Not Confirmed

Applicants may be bypassed where the required verification process has not been completed.

(i) No Response from Applicant

Applicants may be bypassed where they have been contacted for information relating to their application and / or a potential offer of accommodation and the applicant has not responded to that contact within a reasonable period of time.

(j) Local Letting Plans

Applicants may be bypassed where they do not match specific criteria set out in Local Lettings Plans. Local Lettings plans will be adopted for specific areas / schemes to ensure communities are as balanced as possible. Properties subject to local letting plans will be clearly advertised and priority will be given to those that meet the criteria.

(k) Sensitive Letting

In exceptional circumstances, an applicant may be bypassed for a property where they are not considered suitable due to housing management reasons. For example an applicant who has a history of drug dependency may be bypassed for a property in an area where the landlord is aware there are a number of other residents with drug problems. Any final decision about whether to bypass an application based on sensitive letting will be made by the Council rather than the landlord.

(l) Property Not Suitable For Adaptation

Applicants requiring property adaptations to meet their mobility needs may need to be bypassed if the property they have bid for cannot be adapted to meet their needs.

(m) Property Advert Withdrawn

Some properties advertised for letting may need to be withdrawn either because it is urgently needed for a direct letting or because it was being advertised before the previous tenant had left and they have rescinded their notice. This could result in those who have bid being treated as having been 'bypassed'.

(n) Special Requirement of Landlord

Some Housing Association landlords have very specific applicant criteria built into their Allocations policies or charitable rules relating to ages of applicants or area of residence for example. These requirements will usually be set out in the adverts but applicants who bid may need to bypass if the requirements are not met.

(o) Applicant Has Alternative Property Offer Outstanding

An applicant will be by passed if there is an outstanding offer of accommodation available to them which has not been resolved.

(p) Properties in Poor Condition

Transfer applicants may be bypassed if their current home is considered to be in a state of neglect or has been damaged by any household member or visitor to that property. In making this decision, partners will have regard to vulnerable tenants.

5.3 Appeals Against Bypassing

Where an applicant believes they have been bypassed for a vacancy that they have bid for (in other words where they otherwise believe they were the highest placed applicant but have not been offered the property for one of the above reasons) then they can appeal against this decision. (See Section 7 for further information on the review procedure).

A successful appeal will not result in the applicant being made an offer of that vacancy, owing to the short timescales within which properties have to be let. It will, however, enable the applicant to bid in the future and not be bypassed unless there is a change of circumstances.

5.4 Viewings And Offers

Once the bids have been received and selection of applicants finalised (excluding any bypassed cases) viewings will be arranged by the relevant Landlord.

If the household with the highest banding and priority date does not want to accept the property, it will be offered to the household with the next highest priority.

5.5 Tenancies

Offers of some Registered Social Landlord accommodation may be for introductory tenancies, starter tenancies, probationary tenancies and/ or fixed term tenancies

6 Assistance for vulnerable applicants

It is recognised that some households may need additional help with the Search Moves Scheme.

Examples may include but are not exclusive to:

- Care Leavers.
- People with a physical or mental disability.
- Domestic violence and serious harassment victims.
- People with Learning disabilities.
- Offenders or ex-offenders.
- Older applicants.
- People with drug or alcohol issues.
- Rough Sleepers.
- Teenage parents.
- People with low literacy skills.
- Applicants whose first language is not English.

6.1 The Council will use the following methods to identify who will require additional assistance:

- Ask applicants or their advocate to indicate whether they consider themselves in need of support by completing the relevant documentation or speaking to a staff member.
- Close liaison and information sharing with statutory and voluntary agencies.
- Ask all staff completing interviews and visits to identify potential vulnerable applicants so additional assistance can be given.
- Ensure any medical information submitted is evaluated and any support needs are identified.
- Close monitoring as to who is bidding or not and the suitability of the offers being bid for, so proactive action can be taken to assist.

6.2 The Council May Assist Vulnerable Applicants in the Following Ways

- Online translation of Search Moves website.
- Translation of relevant documentation on request.
- Staff from Spelthorne Borough Council will be available to assist vulnerable applicants by identifying suitable properties and directly communicating with the applicant. They will also be able to assist with the bidding process
- Advertisements will be labelled with clear information and symbols to ensure simplicity.
- An online introduction to the Search Moves Scheme and how to use it will be available on the website.
- Applicants will be able to bid for properties online or by contacting the Councils Housing Options Team.
- Extensive communication will take place with agencies and special needs referral panels that represent and advocate on behalf of vulnerable clients.
- A constant review of all aspects and procedures of Search Moves will take place to ensure access and engagement for all vulnerable clients.

7 Right of Review of decisions relating to applications and Allocations

Applicants have the right to request a review of the following decisions:

- A decision that an applicant is ineligible for a housing allocation and therefore unable to be included on the housing register.
- A decision that the applicant is not a qualifying person within the terms of the qualification / disqualification criteria set out in Section 2.5.
- Any decision relating to the facts of their case which have been taken into account in considering whether to make an allocation to them e.g. a decision about banding or priority date of an application.
- A decision to bypass an application*.

Applicants will not be advised that their case has been bypassed but can establish this by specific enquiry if they have bid for a property but find out in the lettings outcome list that the property was offered to someone with a lower banding or later registration than the applicants within the same banding. Appeals against bypassing need to be submitted to Spelthorne Borough Council.

The applicant's review request should be made in writing to the Council within 21 days of the original decision being made. Details of why they are appealing against the decision and any information they wish to be considered should be provided.

An independent senior officer who was not involved in the original decision will consider the review and they will decide whether to overturn or support the original decision. The applicant will be informed in writing of the decision within 21 days of receipt of the

review request. The reply will contain the decision made, the reasons for the decision and the facts taken into account when making the decision.

If an applicant is still not satisfied with the decision that has been made they have a right to make a formal complaint.

7.1 Complaints

Applicants can use the Spelthorne Borough Council complaints procedure if they believe:

- Something has been done badly or wrong.
- If something has not been done that should have been done.
- If the service has not been delivered in accordance with policies and procedures.
- If they have been treated in an impolite or discourteous manner.

All applicants who make a complaint will be treated fairly and objectively. A written reply to any complaint received will be sent out within the timescales set out in the Council's complaints policy.

Information on the Spelthorne Borough Council complaints procedures is available at the Council Offices or via the Council's website. (www.spelthorne.gov.uk)

If the applicant has used Spelthorne Borough Council's complaint procedure and remains dissatisfied, they can write to Local Government Ombudsman or apply for a Judicial Review of the Council's actions.

8 Monitoring and review of this policy

This policy and the operation of it will be reviewed regularly. Complaints and feedback from applicants will be considered as part of this review alongside detailed reports on lettings that have taken place.

9 Personal information and Data Protection

9.1 Data Protection at Spelthorne Borough Council

Spelthorne Borough Council will process applicant's personal data in accordance with Data Protection legislation.

9.2 Partner organisations

Personal information provided to the partner organisations as part of an application for housing will be processed in accordance with the Data Protection Act 1998. Information provided will be used to process their application and may be passed to third parties involved in assessing their application and offering them accommodation.

9.3 Applicants Accessing Own Personal Data

Applicants on the Housing Registers have the right to see any entry relating to them that is held on computerised systems. Applicants can also obtain paper copies of their case file subject to any relevant charges. Where there is third party information held on file, the partner organisations will seek their permission before disclosing documents to the applicant.

10 Requirement to consult Registered Social Landlords on the Allocations Scheme

10.1 Before adopting an Allocations Scheme for housing, or altering its existing scheme, Spelthorne Borough Council is required to:

- Send a copy of the draft scheme, or a new proposal, to all Registered Social Landlords with which the Council has Nomination Agreements. AND,
- Ensure that all such Registered Social Landlords have the opportunity to comment on the proposals.

11 Equal Opportunities

Spelthorne Borough Council will comply with the requirements of the Equality Act 2010 and all related legislation, and have taken account of this legislation and s11 of the Children Act 2004 in drawing up this scheme.

Spelthorne Borough Council is fully committed to equality in housing allocations and will oppose any form of discrimination on the grounds of age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex or sexual orientation.

The Banding Scheme

Emergency / Priority (Bands A1/ A2)

Applicants will fall into this banding where:

- An applicant is assessed as having an “emergency” medical or welfare need to move, including grounds relating to a disability, and this is seriously affected by their current housing (Transfer cases will fall into band A2; all other cases will fall into A1)
- An applicant’s life would be in immediate danger if they continued to live in their current accommodation and this has been substantiated (Transfer cases will fall into band A2; all other cases will fall into A1)
- An applicant needs to move because their home in the Borough of Spelthorne is to be demolished or redeveloped within the next six months and, if the applicants are social housing tenants, the demolition and / or redevelopment of the site has been approved by the relevant Head of Housing (or equivalent.) (Transfer cases will fall into band A2; all other cases will fall into A1)
- An applicant who is a social housing tenant in the Spelthorne borough area and is residing in an adapted property where the adaptations are no longer required will be placed into band A. (Transfer cases will fall into band A2; all other cases will fall into A1)
- An applicant who is occupying a property that is subject to a compulsory purchase order and there is a statutory duty upon Spelthorne Borough Council to secure accommodation for them, will be placed into band A1. (Transfer cases will fall into band A2; all other cases will fall into A1)
- An applicant is assessed as statutorily overcrowded within the meaning of Part 10 of the Housing Act 1985 (but only where the applicant has not worsened their housing situation without good reason) (Transfer cases will fall into band A2; all other cases will fall into A1)
- An applicant nominated via the National Witness Mobility Service will be placed into band A1.
- An applicant who is a social housing tenant in the Spelthorne area and is: under occupying a high demand property (and the nature of the under occupation is not related to any special letting criteria for that unit or part of a wider lettings plans for that scheme / development) AND the applicant is moving to a lower demand / smaller property, will be placed into band A1.

Urgent Need to Move (Band B)

Applicants will fall into this banding where:

- An applicant is assessed as having an “urgent” medical or welfare need to move, including grounds relating to a disability, and this is seriously affected by their current housing. (Transfer cases will fall into band B2; all other cases will fall into B1.)
- An applicant needs to move because of harassment or threat of violence but this is not judged as serious as **Band A**. (Transfer cases will fall into band B2; all other cases will fall into B1.)
- An applicant (or joint applicant) who has been accepted as homeless and the full duty to secure accommodation has been accepted by Spelthorne. (Transfer cases will fall into band B2; all other cases will fall into B1.)
- An applicant is overcrowded and requires two or more additional bedrooms. (Transfer cases will fall into band B2; all other cases will fall into B1.)
- An applicant who is a social housing tenant in the Spelthorne Council area and is under occupying a lower demand property and the nature of the under occupation is not related to any special letting criteria for that unit or part of a wider lettings plans for that scheme / development will fall into band B1.
- An applicant’s accommodation lacks basic facilities, i.e. kitchen, bathroom or toilet and this cannot be provided by the landlord / owner within a reasonable timescale. (Transfer cases will fall into band B2; all other cases will fall into B1.)
- An applicant’s accommodation has been assessed under the Housing Health & Safety Rating System as not reasonably suitable for occupation and cannot be rectified by the owner / landlord at a reasonable cost or timescale. (Transfer cases will fall into band B2; all other cases will fall into B1.)
- An applicant who is in supported housing and has been assessed as no longer requiring the support and has a local connection with Spelthorne and is suitable for independent living and the accommodation is needed by other applicants, will fall into band B1.
- An applicant is pregnant or has at least one dependent child and is living in accommodation where the facilities are shared with others and they are lacking at least one bedroom will fall into band B1. (This banding will NOT apply to transfer cases.)
- An applicant needs to move because their home in the Borough of Spelthorne is to be demolished or redeveloped within the next twelve months and, if the applicants are social housing tenants, the demolition and / or redevelopment of the site has been approved by the Head of Housing (or equivalent.) (Transfer cases will fall into band B2; all other cases will fall into B1.)
- Care Leavers with Children’s Services in Surrey who it has been agreed have a local connection with Spelthorne during the time they were in Care and who are aged 18 to 21 years old and are in housing need and suitable for independent living will be placed into band B1.
- An applicant who is unintentionally threatened with homelessness and has a priority need (within the meaning of Part VII of the Housing Act 1996, as amended by the Homelessness Act 2002) and this has been validated and acted upon by the Housing Options Team and there are no other prevention options available, will be placed into band B1

➤ Armed Forces Urgent Need – band B1 will be awarded to serving members of the regular Armed Forces (and their families):

- Whose service is coming to an end within 12 months of their application or has come to an end within the preceding 12 months. AND,
- They are losing / have recently lost their MoD accommodation. AND,
- There is a specific need to move to the borough relating to employment or family issues. AND,
- There are insufficient funds to pursue other options.

(NB. This priority will not be awarded in situations where service is being ended / has ended due to issues relating to misconduct).

Similarly the same **Band B1** Armed Forces priority will be awarded to recently bereaved spouses (or civil partners) of members of the regular Armed Forces:

- Where the bereavement is within 12 months. AND,
- They are losing / have recently lost their MoD accommodation. AND,
- There is a specific need to move to the Borough. AND,
- There are insufficient funds to pursue other options.

Identified Housing Need (Band C1)

The following applicants will fall into this banding:

- An applicant is assessed as having an “identified” medical or welfare need to move, including grounds relating to a disability, and this is seriously affected by their current housing
- An applicant has been assessed as homeless but is not in priority need within the meaning of Part VII of the Housing Act 1996, as amended by the Homelessness Act 2002
- An applicant has been assessed as intentionally homeless but is in priority need within the meaning of Part VII of the Housing Act 1996, as amended by the Homelessness Act 2002 (and there has been no relevant change in their circumstances to warrant a reassessment)
- An applicant is overcrowded and requires one additional bedroom
- Singles who are 35 years of age and over and are without children, and who share facilities with others
- Couples, who are without children, and who share facilities with others
- Families with dependent children who share facilities with others
- Other household compositions as agreed by Spelthorne Borough Council who share facilities with others
- An applicant has some other compelling need to live in the Borough of Spelthorne which, if not met, will cause hardship
- **Band C1** Armed Forces Priority - this will be awarded to serving members of the regular Armed Forces (and their families):
 - Whose service is coming to an end within 12 months or is due to come to an end within the preceding 12 months. AND,
 - They are losing their accommodation / have recently lost their MoD accommodation. AND,
 - There are insufficient funds to pursue other options.

(NB. This priority will not be awarded in situations where service is being / has ended due to issues relating to misconduct).

- Similarly the same **Band C1** Armed Forces priority will also be awarded to recently bereaved spouses (or civil partners) of members of the regular Armed Forces:
 - Where the bereavement is within 12 months. AND,
 - They are losing / have recently lost their MoD accommodation. AND,
 - There are insufficient funds to pursue other options.

Housing Need – Reduced priority (Band C2)

The following applicants will fall into this banding:

- Any cases where there is a Reasonable Preference need identified but where the household does not meet the positive qualification criteria outlined in paragraphs 2.4 & 2.4.1)
- Any household who are living in temporary accommodation which has been provided by a Council other than Spelthorne under any aspect of the Homelessness Legislation (Housing Act 1996, part 7)

Low and No ‘Deemed’ Housing Need (Band D)

The following applicants will fall into this banding:

- An applicant does not fit into any of the categories in **Band A A1, B, B1, C1 or C2**
- An applicant has deliberately worsened their housing circumstances within the last three years to get more priority on the housing register
- An applicant has given up accommodation within the last three years that was suitable for their needs and by doing so, has knowingly worsened their housing circumstances
- An applicant can afford to buy or part-buy a property in the private sector that is suitable for their needs
- Can afford to rent a privately rented property without recourse to means tested benefits
- An applicant has an asset that could be used to obtain accommodation suitable for their needs
- An applicant owned a property that was suitable for their current needs but transferred or sold the property within the last three years when it was reasonable for them to continue living there
- An applicant who has bid on and been offered two or more properties within a 12 month period and refused for no good and evidenced reason (this band will apply for a period of 12 months.)
- Applicants who qualify under 2.4.1.(iv) but who own or part own a property, either in the UK or abroad (or where such a property is owned by a member of their household)
-

Officer Roles and Responsibilities

This appendix explains which officers are responsible for taking decisions under the common allocations policy.

Whenever an officer is named, the decision can be taken by a more senior officer in their management line.

Eligibility

The Housing Options Team has the authority to decide whether an applicant is eligible to apply to join the housing register in line with the criteria contained in this policy. Some applications may be assessed by an automatic process which follow the policy provisions.

Assessing Priority

The Housing Options Team is responsible for assessing an applicant's housing need in line with the Allocations Policy and placing them in a specific banding. Some applications may be banded by an automatic process which follow the policy provisions.

Special or exceptional circumstances

The Housing Options Manager or Team Leader or equivalent or designated officer has the authority to put an applicant in a higher banding where their needs, after being assessed, are considered to warrant it.

Removing an Application from the Housing Register

The Housing Options Team Assistant or equivalent will decide whether it is appropriate to remove an applicant from the register in line with the policy. Some applications may be assessed by an automatic process which follow the policy provisions.

Reviews

If an applicant submits an appeal requesting a review of a decision made, a senior officer who was not involved in the original decision will consider the request and make a decision.

Direct Lets

a) **Supported Housing**

The Housing Options Manager or equivalent has the authority to make a direct let to an applicant that requires supported accommodation where supported housing is allocated through the housing register and this arrangement exists with the supported housing provider.

b) **Reciprocals**

The Housing Options Manager or equivalent has the authority to agree a reciprocal with another Council or Housing Association.

e) **Homeless Applicants**

The Housing Options Manager or equivalent (job titles may differ between partner organisations) has the authority to make a direct let to a homeless applicant if appropriate.

f) **Exceptional Housing Need**

The Head of Housing or equivalent has the authority to:

- Agree a priority offer of accommodation if there is evidence of immediate and exceptional need.
- Agree to offer an applicant rented accommodation if their income is of a level where they can afford to part-buy, but they cannot secure a mortgage and there is evidence of immediate and exceptional need.

g) **Significant Adaptations**

Where the applicant has a requirement for significant adaptations and a suitable property matching these requirements becomes available.

Eligibility and qualification (from Section 3 of Allocation of Accommodation, Code of Guidance, DCLG 2012)

3.1 Housing authorities must consider all applications made in accordance with the procedural requirements of the authority's Allocations scheme (s.166 (3)). In considering applications, authorities must ascertain:

- If an applicant is eligible for an allocation of accommodation,

Eligibility

3.2 An applicant may be ineligible for an allocation of accommodation under s.160ZA (2) or (4). Authorities are advised to consider applicants' eligibility at the time of the initial application and again when considering making an allocation to them, particularly where a substantial amount of time has elapsed since the original application.

Joint Tenancies

3.3 Under s.160ZA (1) (b), a housing authority must not grant a joint tenancy to two or more people if any one of them is a person from abroad who is ineligible. However, where two or more people apply and one of them is eligible, the authority may grant a tenancy to the person who is eligible. In addition, while ineligible family members must not be granted a tenancy, they may be taken into account in determining the size of accommodation which is to be allocated.

Existing Tenants

3.4 The eligibility provisions do not apply to applicants who are already secure or introductory tenants or assured tenants of a Private Registered Provider. Most transferring tenants fall outside the scope of the allocation legislation (s.159(4A)); while those who are considered to have reasonable preference for an allocation are specifically exempted from the eligibility provisions by virtue of s.160ZA(5).

Persons from abroad

3.5 A person may not be allocated accommodation under Part 6 if he or she is a person from abroad who is ineligible for an allocation under s.160ZA of the 1996 Act. There are two categories for the purposes of s.160ZA:

(i) *a person subject to immigration control* - such a person is not eligible for an allocation of accommodation unless he or she comes within a class prescribed in regulations made by the Secretary of State (s.160ZA (2)), and 11 5 European Economic Area nationals are nationals of any EU member state (except the UK), and nationals of Iceland, Norway, Liechtenstein and Switzerland.

(ii) *a person from abroad other than a person subject to immigration control* - regulations may provide for other descriptions of persons from abroad who, although not subject to immigration control, are to be treated as ineligible for an allocation of accommodation (s.160ZA(4)).

3.6 The regulations setting out which classes of persons from abroad are eligible or ineligible for an allocation are the Allocation of Housing and Homelessness (Eligibility) (England) Regulations 2006 (SI 2006 No.1294) ('the Eligibility Regulations').

Persons subject to immigration control

3.7 The term 'person subject to immigration control' is defined in s.13(2) of the Asylum and Immigration Act 1996 as a person who under the Immigration Act 1971 requires leave to enter or remain in the United Kingdom (whether or not such leave has been given).

3.8 The following categories of persons do not require leave to enter or remain in the UK:

(i) British citizens

(ii) Certain Commonwealth citizens with a right of abode in the UK

(iii) Irish citizens, who are not subject to immigration control in the UK because the Republic of Ireland forms part of the Common Travel Area (see paragraph 3.11 (iii) below) with the UK which allows free movement.

(iv) EEA nationals, and their family members, who have a right to reside in the UK that derives from EU law. Whether an EEA national (or family member) has a particular right to reside in the UK (or another Member State) will depend on the circumstances, particularly their economic status (e.g. whether he or she is a worker, self-employed, a student, or economically inactive)

(v) Persons who are exempt from immigration control under the Immigration Acts, including diplomats and their family members based in the UK, and some military personnel.

3.9 Any person who does not fall within one of the four categories in paragraph 3.11 will be a person subject to immigration control and will be ineligible for an allocation of accommodation unless they fall within a class of persons prescribed by regulation 3 of the Eligibility Regulations (see further below).

3.10 If there is any uncertainty about an applicant's immigration status, housing authorities are recommended to contact the UK Border Agency (UKBA). UKBA provides a service to housing authorities to confirm the immigration status of an applicant from abroad (non asylum seekers) by email at LA@UKBA.gsi.gov.uk. Where UKBA indicates 12 6 Inserted by the Allocation of Housing and Homelessness (Miscellaneous Provisions) (England) Regulations 2006 the applicant may be an asylum seeker, enquiries of their status can be made to the Immigration Enquiry Bureau helpline on 0870 606 7766.

3.11 Regulation 3 of the Eligibility Regulations provides that the following classes of persons subject to immigration control are eligible for an allocation of accommodation:

i) *A person granted refugee status*: granted 5 years' limited leave to remain in the UK

ii) *A person granted exceptional leave to enter or remain in the UK without condition that they and any dependents should make no recourse to public funds*: granted for a limited period where there are compelling humanitarian or compassionate circumstances for allowing them to stay. However, if leave is granted on condition that the applicant and any dependents are not a charge on public funds, the applicant will not be eligible for an allocation of accommodation. Exceptional leave to remain (granted at the Secretary of State's discretion outside the Immigration Rules) now takes the form of 'discretionary leave'.

iii) *a person with current leave to enter or remain in the UK with no condition or limitation, and who is habitually resident in the UK, the Channel Islands, the Isle of Man or the Republic of Ireland (the Common Travel Area)*: such a person will have indefinite leave to enter (ILE) or remain (ILR) and is regarded as having settled status. However, where ILE or ILR status is granted as a result of an undertaking that a sponsor will be responsible for the applicant's maintenance and accommodation, the person must have been resident in the Common Travel Area for five years since the date of entry - or the date of the sponsorship undertaking, whichever is later - to be eligible. Where all sponsors have died within the first five years, the applicant will be eligible for an allocation of accommodation.

iv) *A person who has humanitarian protection granted under the Immigration Rules 6*:

- a form of leave granted to persons who do not qualify for refugee status but would face a real risk of suffering serious harm if returned to their state of origin (see paragraphs 339C-344C of the Immigration Rules (HC 395))

Other persons from abroad who may be ineligible for an allocation

3.12 By virtue of regulation 4 of the Eligibility Regulations, a person who is not subject to immigration control and who falls within one of the following descriptions is to be treated as a person from abroad who is ineligible for an allocation of accommodation:

(i) A person who is not habitually resident in the Common Travel Area (subject to certain exceptions - see paragraph 3.14 below)

(ii) A person whose only right to reside in the UK is derived from his status as a jobseeker (or his status as the family member of a jobseeker). As of 1 May 2011, nationals of the 8 Eastern European countries (A8 nationals) which acceded to the EU in 2004 are no longer required to register with the Workers Registration Scheme in order to work in the UK. Regulation 4(2) (c) of the Eligibility Regulations no longer applies to applications from A8 workers as of that date. Rather applications from A8 workers should be considered on the same basis as those from other EU workers under

regulation 4(2)(a).the same meaning as in regulation 6(1) of the Immigration (European Economic Area) Regulations 2006 (SI 2006 / 1003) ('the EEA Regulations').

(iii) A person whose only right to reside in the UK is an initial right to reside for a period not exceeding three months under regulation 13 of the EEA Regulations

(iv) A person whose only right to reside in the Common Travel Area is a right equivalent to one of the rights mentioned in (ii) or (iii) above and which is derived from EU Treaty rights

3.13 See annex 2 for guidance on rights to reside in the UK derived from EU law.

3.14 The following persons from abroad are eligible for an allocation of accommodation even if they are not habitually resident in the Common Travel Area:

a) An EEA national who is in the UK as a worker (which has the same meaning as in regulation 6(1) of the EEA Regulations)

b) An EEA national who is in the UK as a self-employed person (which has the same meaning as in regulation 6(1) of the EEA Regulations)

c) A person who is treated as a worker for the purposes of regulation 6(1) of the EEA Regulations, pursuant to the Accession (Immigration and Worker Authorisation) Regulations 2006 (i.e. nationals of Bulgaria and Romania required to be authorised by the Home Office to work until they have accrued 12 months uninterrupted authorised work)⁷

d) A person who is a family member of a person referred to in (a) to (c) above

e) A person with a right to reside permanently in the UK by virtue of regulation 15(c), (d) or (e) of the EEA Regulations

f) A person who left Montserrat after 1 November 1995 because of the effect of volcanic activity there

g) A person who is in the UK as a result of his deportation, expulsion or other removal by compulsion of law from another country to the UK. This could include EEA nationals, if the person was settled in the UK and exercising EU Treaty rights prior to deportation from the third country. Where deportation occurs, most countries will signal this in the person's passport.

3.15 A person who is no longer working or no longer in self-employment will retain his or her status as a worker or self-employed person in certain circumstances. However, accession state workers requiring authorisation will generally only be treated as a worker when they are actually working as authorised and will not retain 'worker' status between jobs until they have accrued 12 months continuous authorised employment. 'Family member' does not include a person who is an extended family member who is treated as a family member by virtue of regulation 7(3) of the EEA Regulations (see 14 annexes 2 and 3 for further guidance).

3.16 The term 'habitual residence' is intended to convey a degree of permanence in the person's residence in the Common Travel Area; it implies an association between the individual and the place of residence and relies substantially on fact.

3.17 Applicants who have been resident in the Common Travel Area continuously during the two year period prior to their housing application are likely to be habitually resident (periods of temporary absence, e.g. visits abroad for holidays or to visit relatives may be disregarded). Where two years' continuous residency has not been established, housing authorities will need to conduct further enquiries to determine whether the applicant is habitually resident (see annex 4 for further guidance).